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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/321,920

05/28/99

ARNOLD

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EXAMINER

FLETCHER, M

7

ART UNIT

PAPER NUMBER

2837

DATE MAILED:

11/23/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/321,920

Applicant(s)
Arnold et al.

Examiner
Marlon Fletcher

Group Art Unit
2837



☒ Responsive to communication(s) filed on May 29, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-30 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-3, 5, 6, 9-11, 22, and 27-30 is/are rejected.

☒ Claim(s) 4, 7, 8, 12-21, and 23-26 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Double Patenting

1. Claims 1-3, 5, 24-26 and 28-30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 15-17, 1, 18, and 19, respectively of U.S. Patent No. 5,908,997. Although the conflicting claims are not identical, they are not patentably distinct from each other because independent claim 1 of the present application claims the same subject matter of independent claim 1 in Patent No. 5,908,997, wherein the difference being that Patent No. 5,908,997 recites the musical instrument having a musical keyboard. The claims of the present application listed above are obvious over Patent No. 5,908,997.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1, 3, 5, 6, 9, 22, and 27-30, are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Farrett et al. (5,541,354).

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As recited in claim 1, Farrett et al. disclose an electronic music instrument system, comprising: an electronic music instrument, having selectable groups of reproducible sounds (10) and individually selectable reproducible sounds within said groups of sounds; an audio signal generator (11) for energizing an audio amplifier responsive to different ones of a plurality of digital audio sources, including said groups of sounds and said individual sounds of said electronic music instrument; a graphical user interface (290) for displaying at least one control graphic representing controllable parameters of said audio signals generated by said generator; and control means (330, 340, 350) responsive to operation of said control graphic for adjusting said controllable parameters of said generator and for selectively coupling different ones of said sources to said generator.

As recited in claim 3, Farrett et al. disclose the electronic music instrument system, wherein one of said controllable parameters is voice selection for single instrument sound.

As recited in claim 4, Farrett et al. disclose the electronic music instrument system, wherein one of said controllable parameters is effects selection for said single instrument sound as discussed in column 9, lines 44-53.

As recited in claim 6, Farrett et al. disclose the electronic music instrument system, wherein the controllable parameters include multiple instrument sound selection and sound layer assignment, controlled responsive to operation of said at least one control graphic; and at least one control graphic is displayed on a single screen of said graphical user interface as seen in figure

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As recited in claim 9, Farrett et al. disclose the electronic music instrument system, wherein graphical user interface generates a further control graphic as discussed in column 9, lines 20-23; one of said controllable parameters is a volume control (340) for each said sound layer, responsive to operation of said further control graphic; and said further control graphic is displayed on a further single screen of said graphical user interface as seen in figure 7.

As recited in claim 27, Farrett et al. disclose the electronic music instrument system, wherein said control means is exclusively responsive to said graphical user interface as seen in figure 7.

As recited in claim 28, Farrett et al. disclose the electronic music instrument system, wherein the electronic musical instrument can be connected to a musical keyboard via MIDI (303).

As recited in claim 29, Farrett et al. disclose the electronic music instrument system, wherein said control means is exclusively responsive to said graphical user interface and can be responsive to a musical keyboard as discussed above.

As recited in claim 28, Farrett et al. disclose the electronic music instrument system, wherein the sources include at least one prerecorded source (10).

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2, 10, 11, and 22, are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrett et al. in view of Ishii (5,949,012).

Farrett et al. are disclose above. With respect to claim 22, Farrett et al. disclose a personal computer, wherein computers all comprise modems for on-line communication. Farrett et al. do not disclose a touch responsive overlay.

However, Ishii discloses a video display and a touch-responsive overlay (17).

With respect to claims 10 and 11, Official Notice is taken with respect to it being well known in the art to provide pan adjustment and key transposition parameters to musical performances.

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Ishii in view of Farrett et al., because Ishii provides a touch sensitive display which allows a user to control the device via a touch screen.

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Allowable Subject Matter

6. Claims 4, 7, 8, 12-21, and 23-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon Fletcher whose telephone number is (703) 308-0848.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi, can be reached on (703) 308-3370.

MTF


November 22, 1999


ROBERT E. NAPPI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800